UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,509	01/23/2001	Thomas Rudolph Batcha	ALT-0001	2815

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EXAMINER
INGBERG, TODD D

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 February 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
       closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-26_ is/are pending in the application.

         4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-26_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

         Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

         Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

         a)☐ All   b)☐ Some * c)☐ None of:

              1.☐ Certified copies of the priority documents have been received.

              2.☐ Certified copies of the priority documents have been received in Application No. _____.

              3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
                     application from the International Bureau (PCT Rule 17.2(a)).

         * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
      Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
         Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1 – 20 have been examined.

Claims 1, 10 and 23 have been amended.

Requirement For Information - 37 USC § 1.105

1.   Applicant and Assignee of this application are required under 37 CFR 1.105 to provide

the following that the Examiner has determined is reasonably necessary to the examination of

this application.

2.   The Assignee (**Altia**, Inc.®) and inventors appear to have a commercial product called

FACEPLATE which one of the Inventors is mentioned in a Press Release announcing over one

year to filing for a U.S. Patent application.

The Examiner has attempted to locate a copy on line for the commercial product. The scope of

the Requirement For Information (RULE 105) is a copy of documentation for the FACEPLATE

product, if related to the instant application.

This requirement is made with the intent to assist in the prosecution of this case. The

Examiner feels the scope of this requirement is narrow and should be well within the abilities of

the concerned parties to provide this information.

The information is required if related to the instant application to identify the difference

between the instant invention and the undisclosed commercial product well prior to one year

before filing.

If Applicant elects to continue prosecution a response to this requirement is due with any

response to this FINAL action.

Where applicant does not have or cannot have readily obtained items of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

Furthermore, if the commercial product FACEPLATE is not related to the instant invention a statement which is binding on the Applicants, Assignee and Applicant's Representative is encouraged.

The fee and certification requirements of 37 § C.F.R. 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 § C.F.R. 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communications responding to this requirement and any information disclosures beyond the scope of this requirement under 37 § C.F.R. 1.105 are subject to the fee and certification requirement of 37 § C.F.R. 1.97

This requirement is subject to the provisions of 37 C.F.R. 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Drawings

3. The drawings were accepted but fail to show details as to how to implement. The disclosure is a high level teaching. Correction would add new matter.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the option of "selecting dynamic memory" and "translator includes an option of translating a graphical objects control logic" and

" identifying a target processor" and "selecting size for dynamic allocation", must be shown or

the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office

action to avoid abandonment of the application. The objection to the drawings will not be held

in abeyance.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

6.   Claims 1 – 26 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure

which is not enabling. for the detail required to be a teaching to one of ordinary skill in the art

which is critical or essential to the practice of the invention, but not included in the claim(s) is

not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The Specification does not provide sufficient detail to teach one of ordinary skill to build a

translator, to add options to a graphic object, to write code supporting a dynamic memory

allocation control unit, to have a translator size data structures outside a high level languages

capabilities. The Specification covers portions of a page for 9 pages. Technical details are left to

what one of ordinary skill in the art must know, which leaves a reader to wonder if one of

ordinary skill must know so much to reduce the teaching to practice without undo

experimentation then what is patentable in the disclosure?

Applicant's Response

The following was scanned from Applicant's response of February 3, 2004.

"With respect to the drawings and the 35 USC 112, first paragraph rejection, the applicants would like to point the Examiner's attention to MPEP 2164.04 and In re Wright, 999 F.2d 1557, 27 USPQ2d 1510, 1513 (Fed. Cir 1993). The court states that "A specification disclosure which contains a teaching of the manner and process of making and using an invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as being in compliance with the enablement requirement, unless there is a reason to doubt the objective truth of the statements contained therein which must be relied on for enabling support." This statement makes it clear that the burden of proof is on the Examiner. The Examiner has not stated a "reason to doubt the objective truth" of the statements in the patent application. The Examiner has merely stated in his opinion, the specification is not enabling in his opinion. The rejection under 35 USC 112, first paragraph must be withdrawn. In addition, the rejection of the drawings must also be withdrawn."

Examiner's Response

Applicant's response underscores the problems with the disclosure. The Examiner stated in the record the features of the claimed invention which are lightly covered in the Specification. The Applicant has left themselves open to interpretation in view of the Specification in the most reasonably broad manner. The Examiner interpreted on FAOM the use of constructors (new Operator) the "option of allowing dynamic memory allocation.". Furthermore, if an new contructor is encountered then the determination mechanism is in place for "(b2) determining if a dynamic memory allocation is selected". Furthermore, the Examiner has proved in the response to Official Notice memory size allocation which meets the limitation, "(b3) when the dynamic memory allocation is not selected, selecting a memory allocation size.". The Examiner also interpreted the use of the C++ compiler as determining a target processor which meets the limitation, "(cl) identifying a target processor for a compiler". All of these are missing from the drawings and are subject to their broadest interpretation in view of the Specification. Applicant has failed to support technical differences. This is a consequence of the lack of technical disclosure.

Applicant's use of case law

Applicant's use of case law is not persuasive. Applicant states the Examiner is merely stating an

opinion. Actually the Examiner has examined the disclosure and made a determination.

The case law cited In re Wright, 999 F.2d 1557, 27 USPQ2d 1510, 1513 (Fed. Cir 1993) states:

"Patent and Trademark Office, in rejecting claim under enablement requirement of 35 USC 112,

bears initial burden of setting forth reasonable explanation of why scope of protection provided

by claim is not adequately enabled by specification's description of invention, and this

burden includes providing sufficient reasons for doubting any assertions in specification as to

scope of enablement; if PTO meets this burden, then burden shifts to applicant to provide

suitable proofs indicating that specification is enabling."

Examiner has stated what is not adequately enabled by specification's description of

invention coupled with the requirement for every claim limitation to be show in the drawings the

Applicant has failed to provide a teaching. With only eight and one half pages of Specification

before the claims and Abstract, Applicant appears unable or unwilling to respond properly (i.e.

point in short Specification to clear and concise teachings as required). Examiner repeats that the

light details in the Specification leave the Applicant a position where to properly respond they

must admit either critical information is missing or one of ordinary skill in the art would have to

know critical information at the time of invention. Given the Applicant challenges whether

dynamic memory allocation and sizing a data structure is well known in the art, the Applicant

appears reluctant to admit anything would be known to a Person Having Ordinary Skill In The

Art (PHOSITA) at the time of invention.

Applicant's Allegations

Applicant states the Examiner is merely stating an opinion. Actually the Examiner has examined

the disclosure and made a determination.

Examiner's Response

Applicant's response is short and uninformative. Applicant has left out significant

information and yet holds over the Office a burden to teach at a greater level than their own

disclosure. This seems to have left the Applicant in a position of making allegations.

Information Disclosure Statement

7.   The IDS submitted on January 23, 2001 has already been considered. In searching the

Assignee's prior work and product offerings the following were found: Atria **FacePlate**, Real-

time Studio Professional, **Telelogic Tau**™ SDL Suite (Registered trademark in US in TESS

database first commercial use 1997 registration number 2438203) one must presume the claimed

invention has nothing to do with these product offerings, since no IDS has been received with

these products documented. The article ""Inspiring Engineers Altia Inc.", mention of

FACEPLATE "*release early July 1999*", printed on April 8, 2004, 4 pages with inventor

Michael Juran named in the article. In the event this product is related to the instant invention the

Applicant's are reminded of their duty to disclose relevant information in a timely manner

(within 3 months of knowing).

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

States and was published under Article 21(2) of such treaty in the English language.

9.   Claims 15 – 20 are rejected under 35 U.S.C. 102(a,b,e) as being anticipated by Visual

Object-Oriented Programming (**VOOP**) Concepts and Environments, M.M. Burnett et al

(published 1994).

Claim 15

VOOP anticipates a system for designing testing and employing graphical computer code

comprises :a graphics environment for creating a graphical display made up of a plurality of

graphical objects constructed by the graphics environment; a translator for creating a high-level

computer language code, the translator connected to the graphics environment; and a control

editor connected to the graphics environment. (VOOP, as per claim 1 and the Rules editor and

Textual Constraints and action, pages 136 – 139).

Claim 16

The system of claim 15, further including: a library of components within the graphics

environment. (VOOP, page 257, library of metapatterns).

Claim 17

The system of claim 15, further including: a run time system within the graphics environment,

the run time system designed to execute a graphical design. As per claim 1 the example of Rule.

Claim 18

The system of claim 15, wherein the translator includes an option of translating a graphical

objects input stimulus. As per rejection of claim 6.

Claim 19

The system of claim 15, wherein the translator includes an option of translating a graphical

objects control logic. (VOOP, Page 138, constraint dialog box and pages 74 – 78 Control

constructs).

Claim 20

The system of clam 15, wherein the translator includes an option of translating a graph

representation. (VOOP, page 74- 78, graphs to code)

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 21 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **VOOP**

(such as claim 1)as above in view of runtime support of an Object Oriented Language such as a

UNIX.

Official Notice is taken that a multitasking operating system such as UNIX supports dynamic

memory allocation. therefore it would have been obvious to one of ordinary skill in the art at the

time of invention to utilize an environment like UNIX because dynamic memory allocation

supports the instantiation (constructor) of objects and the destructor of objects as well as the need

for garbage collection.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over VOOP as above in view

of the inherent features of storage allocation considerations in software development tools.

Official Notice is taken that software development tools must allocate resources to data stores

and these stores must be determined. This task is inherent in development tools (compiler or

interpreter). Therefore, it would have been obvious to one of ordinary skill in the art at the time

of invention to size a data store, because resources must be allocated for each data store.

Claim 21

The system of claim 15, wherein the translator includes an option of allowing dynamic memory

allocation.

Claim 22

The system of claim 15, wherein the translator sizes a data structure.

Claim Rejections - 35 USC § 102

12.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 14 and 23 – 26 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of

the invention. FACEPLATE by Altia released early July 1999 as mentioned in the article

"Inspiring Engineers Altia Inc.", mention of FACEPLATE release early July 1999, printed on

April 8, 2004, 4 pages.

13.   An issue of public use or on sale activity has been raised in this application. In order for

the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b),

additional information regarding this issue is required as follows: FACEPLATE release early

July 1999 and any related documentation related to the instant invention.

Applicant is reminded that failure to fully reply to this requirement for information will result in

a holding of abandonment. Statements that the product FACEPLATE is not related to the instant

invention would clear up the question.

Claim Rejections - 35 USC § 102

14.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15.   Claims 1 – 14 and 23 – 26 are rejected under 35 U.S.C. 102(b) as being anticipated by

BACCII using C++, as disclosed in "Iconic Programming for Teaching the First Year

Programming Sequence", Ben A. Calloni et al, IEEE paper from 1995.

Claim 1 (Currently Amended)

BACCII using C++ anticipates a system for designing, testing, and employing graphical

computer code (BACCII , Abstract)comprises- a graphics editor for creating a graphical display

(BACCII, Figure 1)made up of a plurality of graphical objects (BACCII, Enhancement for a

One Year Computer Programming Curriculum, last paragraph, OO paradigm)constructed by the

graphics editor(BACCII, Figure 1), a translator for creating a high-level computer language code

that creates the graphical display (BACCII, the building of the objects representing programming

constructs used in Figure 1) , the translator connected to the graphics editor(BACCII, Summary

and Future Directions – translate – generate syntax correct C++ code also Figure 1 Generate

Code); and a compiler receiving the high level computer language code from the translator

(BACCII, C++).

Claim 2
The system of claim 1, further including: a run time system connected to the graphics editor, the
run time system designed to execute a graphical design. BACCII uses C++ as per claim 1.

Claim 3
The system of claim 1, further including: a control editor connected to the graphics
editor.(BACCII, Figure 1)

Claim 4
The system of claim 1, further including- a library of graphical objects connected to the graphics
editor. (BACCII, figure 1, icons on left are a library)

Claim 5

The system of claim 1, wherein the translator includes an option of translating a graphical objects graphical representation. (BACCII, Summary and Future Directions – translate – generate syntax correct C++ code also Figure 1 Generate Code)

Claim 6
The system of claim 1, wherein the translator includes an option of translating a graphical objects input stimulus. (BACCII, Figure 1 lines between icons).

Claim 7
The system of claim 1, wherein the translator includes an option of translating a graphical objects control logic. (BACCII, Summary and Future Directions – translate – generate syntax correct C++ code).

Claim 8
The system of claim 1, wherein the translator includes an option of allowing dynamic memory allocation. Inherent in C++ - *new* operator to instantiate objects.

Claim 9
The system of claim 1, wherein the translator sizes a data structure. Inherent in generation of C++ code for data structures such as arrays.

Claim 10 (Currently Amended)
BACCII using C++ anticipates a method for designing, testing, and employing graphical computer code including:
,(a) creating a graphical object with a graphics editor; (b) translating a graphical object of the a graphical display into a high level computer language code; and (c) compiling the high level computer language code. As per claim 1.   ˎ

Claim 11
The method of claim 10, wherein step (c) further includes: (cl) identifying a target processor for a compiler. Inherent in the C++ compiler to know the target processor.

Claim 12
The method of claim 10, wherein step (b) further includes.. (bl) examining a plurality of objects to be translated-, (b2) determining if a dynamic memory allocation is selected (b3) when the dynamic memory allocation is not selected, selecting a memory allocation size. As per claims 1, 8 and 9.

Claim 13
The method of claim 10, wherein step (b) further includes: (bl) translating a graphical objects input stimulus,(b2) translating a graphical objects control logic-, (b3) translating a graphical objects graphical representation. As per claim 6.

Claim 14

The method of claim 10, Wherein step (a) further includes: (al) creating an animation sequence by example; (a2) creating an animation input stimulus. (BACCII the program in Figure 1 with the lines between the icons).

Claim 23
BACCII using C++ anticipates a translation system for designing, testing, and employing graphical computer code comprising an array builder for constructing a date array from a plurality of graphical objects; a code builder for translating a high-level computer language code that creates the graphical objects from the array data; and a library of computer code operations connected to the code builder. As per claims 1 and 4.

Claim 24
The system of claim 23, wherein the code builder includes a data sizing function. See claim 9.

Claim 25
The system of claim 23, wherein the library of computer code operations comprises a library of files for generating an animation, stimulus, and control code. (Figure 1 Coding Screen library shown in iconic form on left, in figure example - see lines between icons as stimulus, and code in icons is control code as described in paragraph on same page before Previous Study).

Claim 26
The system of claim 23,wherein the code builder includes a dynamic memory allocation choice. See claim 8.

Response to Arguments

16.   Applicant's Argument
       "Claims 1-26 are at issue. Claims 1- 26 stand rejected under 35 USC 112 first paragraph as based on a disclosure which is not enabling. Claims 1-7, 10-11, 13-20, 23 & 25 stand rejected under 35 USC 102 (a,b,e) as anticipated by Visual Object Oriented Programming (VOOP). Claims 8, 12 & 26 stand rejected under 35 USC 103(a) as being unpatentable over VOOP and Official Notice.
       A new declaration is enclosed."
Examiner's Response
       Amendment to independent claims 1, 10 and 23 have changed the scope of claims 1 – 14 and 23 – 26 and a new grounds of rejection has been applied to these claims.
       The Examiner will respond to the arguments to claims 15 – 22.

17.   Arguments Directed Toward Grounds of Rejection Maintained
Applicant's Arguments
"Claim 15
       Claim 15 requires a translator for creating a high-level computer language. The Examiner points to Chapter 7 of the VOOP text. Page 150 states that the icons are placed in the "runtime application". The circuit can then be run by selecting execute. There is no discussion of a

translator to high level computer language. Clearly the section pointed to by the Examiner is an interpretive language. As stated in the specification, page 2,lines 12-13 the system "automatically creates the computer code to drive the user interface in a new product." This is clearly not done by Vampire system in the VOOP text. Claim 15 is allowable.

Examiners Response
     The Examiner disagrees. The icons are a form of programming language and generate a high level language. The icons must have semantics in order to produce code this is inherent in iconic programming. One of very basic skill in the art should have known this well before the time of invention. The limitations of independent claim 15 and maintained rejection are as follows:

"**VOOP** anticipates a system for designing testing and employing graphical computer code

comprises :a graphics environment for creating a graphical display made up of a plurality of

graphical objects constructed by the graphics environment; a translator for creating a high-level

computer language code, the translator connected to the graphics environment; and a control

editor connected to the graphics environment. (VOOP, as per claim 1 and the Rules editor and

Textual Constraints and action, pages 136 – 139)."

Applicant's statements about the commercial product Vampire that the product does not

generate a high level language is solely the express written opinion of the Applicant and does not

reflect the position of the United States Patent Office.

18.   Applicant's Arguments
"Claim 16 -17
     Claims 16-17 are allowable as being dependent upon an allowable base claim."
Examiners Response
     Argument's toward claim 15 was not persuasive. Claims 16 – 17 remain rejected.

19.   Applicant's Arguments
"Claim 18-22
     Claims 18-22 requires a translator with various functions. There is no discussion of a translator. Claims 18-22 are allowable."
Examiners Response

First ,*"various functions"* is not a limitation and would have drawn a rejection under 35

U.S.C. 112 second paragraph as being *indefinite*.

Second, the Applicant states no discussion is present on translation from an icon semantic

to a code. To believe Applicant's argument is believe the icons have no grammar and semantics.

This is clearly wrong.

20.   Applicant's Challenge to Official Notice

The Applicant challenged the use of Official Notice

Examiner's Response

The following is the Examiner's use of Official Notice

"Official Notice is taken that a multitasking operating system such as UNIX supports dynamic

memory allocation. therefore it would have been obvious to one of ordinary skill in the art at the

time of invention to utilize an environment like UNIX because dynamic memory allocation

supports the instantiation (constructor) of objects and the destructor of objects as well as the need

for garbage collection.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over VOOP as above in view

of the inherent features of storage allocation considerations in software development tools.

Official Notice is taken that software development tools must allocate resources to data stores

and these stores must be determined. This task is inherent in development tools (compiler or

interpreter). Therefore, it would have been obvious to one of ordinary skill in the art at the time

of invention to size a data store, because resources must be allocated for each data store.

Claim 21

The system of claim 15, wherein the translator includes an option of allowing dynamic memory

allocation.

Claim 22

The system of claim 15, wherein the translator sizes a data structure."

Examiner's Defense of Official Notice

A. Dynamic Allocation of Memory

B. Translator Sizes a Data Structure

The Examiner chose the need to be able to dynamically allocate memory in operations

such as the instantiation of an object and chose the UNIX operating environment as an

environment that supports the dynamic allocation of memory with object constructors. It should

be noted the Examiner could have simply stated an environment that supports dynamic memory

allocation (even broader than any one Operating System). One of less than ordinary skill should

know a constructor is the programming construct that is invoked to instantiate an object (e.g.

new in ANSI standard C++). In the text book "Beginning Visual C++ 5" by Ivor Horton

published March 19, 1997 on pages 152 – 153 Horton covers the dynamic allocation of memory

for operator *new*. On pages 153 – 156 Horton teaches sizing of data structures when he teaches

dynamic allocation of memory for arrays. Please note the use of the new operator and the sizing

criteria "[] double etc" in the examples. One of very ordinary skill in the art would have known

of these basic concepts to be able to considered ordinary.

Conclusion

21.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Correspondence Information

22.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Todd Ingberg** whose telephone number is (703) 305-9775. The

examiner can normally be reached during the following hours:

Monday	Tuesday	Wednesday	Thursday	Friday
6:15 – 1:30	6:15- 3:45	6:15 – 4:45	6:15-3:45	6:15-130

This schedule began December 1, 2003 and is subject to change.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

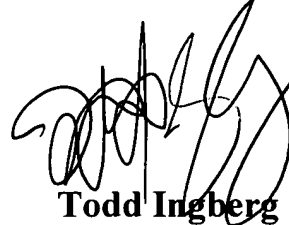supervisor, **Kakali Chaki** can be reached on (703) 305-9662. Please, note that as of August 4,

2003 the **FAX number** changed for the organization where this application or proceeding is

assigned is **(703) 872-9306**.

Also, be advised the United States Patent Office **new address** is

Post Office Box 1450

Alexandria, Virginia 22313-1450

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-9700.

Todd Ingberg
Primary Examiner
Art Unit 2124
April 18, 2004